



Paper No. 21

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In re Application of:  
Northcutt, *et al.*  
Application No. 09/063,335  
Filed: April 20, 1988

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SEP 11 2002

**OFFICE OF PETITIONS**

**ON PETITION**

This is a decision on the October 1, 2001 petition under 37 C.F.R. §1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely reply to the October 26, 2000 final office action. A shortened statutory period of three (3) months was set for replying. This period lapsed without a timely and proper reply. Consequently, the application became abandoned on January 27, 2001.<sup>1</sup>

Effective December 1, 1997, the provisions of 37 C.F.R. §1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 C.F.R. §1.137(b). A grantable petition pursuant to 37 C.F.R. §1.137(b) must be accompanied by:

- (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
- (2) the petition fee as set forth in 37 C.F.R. §1.17(m);
- (3) a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and
- (4) any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c).

This petition lacks requirement number one (1) above. Specifically, although a response was attempted with proposed amendments, Examiner Vu has reviewed and deemed these amendments insufficient for placing the application in condition for allowance.

Accordingly, this petition is **DISMISSED**.

<sup>1</sup> 35 U.S.C. §133, 37 C.F.R. §1.134-136.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted.<sup>2</sup> The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(b)".

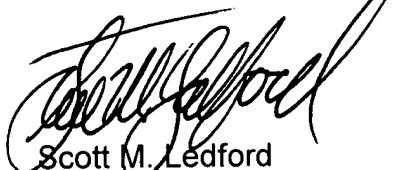
Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents  
Box DAC  
Washington, D.C. 20231

By FAX: (703) 308-6916  
Attn: Office of Petitions

By hand: Office of Petitions  
Four Crystal Plaza, Suite 3C23  
2201 South Clark Place  
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Telephone inquiries concerning this matter may be directed to the undersigned in the Office of Petitions at (703) 306-5593.



Scott M. Ledford  
Attorney  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

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<sup>2</sup> 37 C.F.R. §1.137(d)